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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/553,120	10/14/2005	Tatsuo Kimura	279431US0PCT	1699

22850 7590 05/09/2008

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EXAMINER	
HUANG, GIGI GEORGIANA	
ART UNIT	**PAPER NUMBER**
1612	

NOTIFICATION DATE	DELIVERY MODE
05/09/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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oblonpat@oblon.com
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Office Action Summary	Application No.	Applicant(s)	
	10/553,120	KIMURA ET AL.	
	Examiner	Art Unit	
	GIGI HUANG	1612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *1* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 October 2005*.

2a)☐ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☒ Claim(s) *1-4* are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

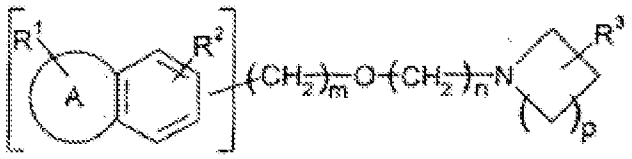
Election/Restrictions

1. Restriction is required under 35 U.S.C. 121 and 372.

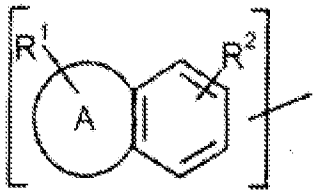
This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

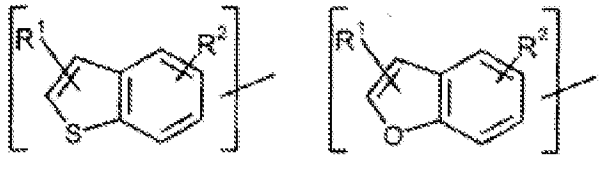
a. Group I, claims 1-4 (in part), drawn to a preventive and/or remedy for retinal nerve diseases characterized in that it comprises an alkyl derivative represented by the following formula:



wherein the portion of the compound represented by



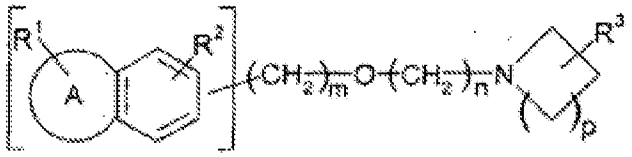
is either



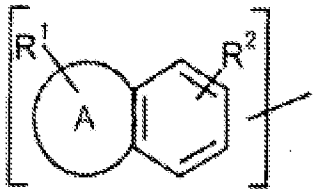
(A) (B)

and p is equal to 1.

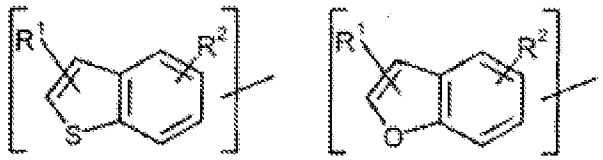
b. Group II, claims 1-4 (in part), drawn to preventive and/or remedy for retinal nerve diseases characterized in that it comprises an alkyl derivative represented by the following formula:



wherein the portion of the compound represented by



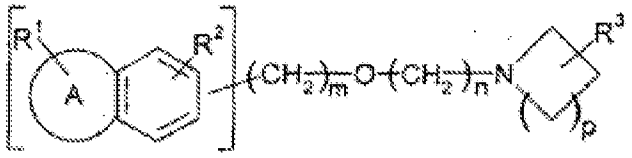
is either



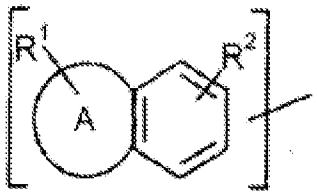
(A) (B)

and p is equal to 2.

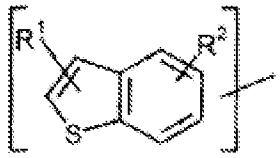
c. Group III, claims 1-4 (in part), drawn to preventive and/or remedy for retinal nerve diseases characterized in that it comprises an alkyl derivative represented by the following formula:



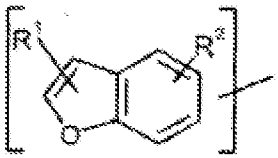
wherein the portion of the compound represented by



is either



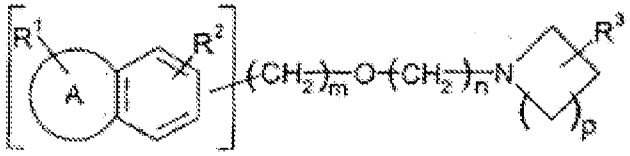
(A)



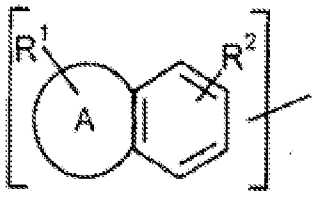
(B)

and p is equal to 3.

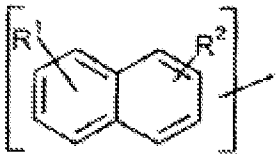
d. Group IV, claims 1-4 (in part), drawn to preventive and/or remedy for retinal nerve diseases characterized in that it comprises an alkyl derivative represented by the following formula:



wherein the portion of the compound represented by



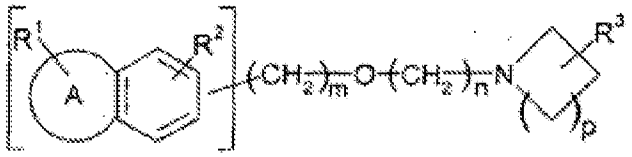
is



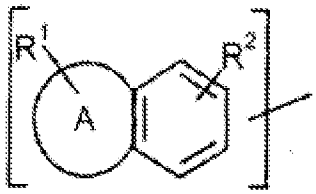
(C)

and p is equal to 1.

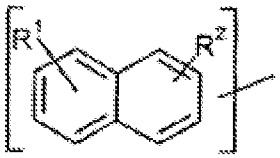
e. Group V, claims 1-4 (in part), drawn to preventive and/or remedy for retinal nerve diseases characterized in that it comprises an alkyl derivative represented by the following formula:



wherein the portion of the compound represented by



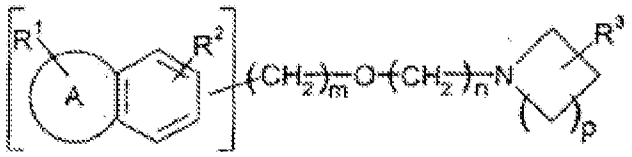
is



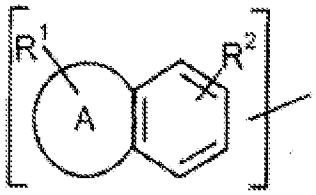
(C)

and p is equal to 2.

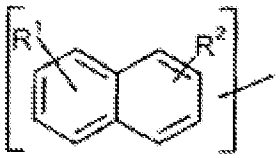
f. Group VI, claims 1-4 (in part), drawn to preventive and/or remedy for retinal nerve diseases characterized in that it comprises an alkyl derivative represented by the following formula:



wherein the portion of the compound represented by



is



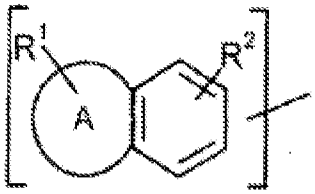
(C)

and p is equal to 3.

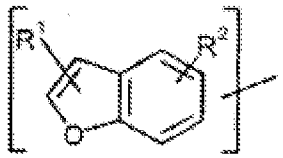
g. Group VII, claims 1-4 (in part), not included in Groups I-VI.

2. The inventions listed as Groups I – VII do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons:

First, the compound structures listed are not a proper Markush group. The compounds should have a common core and common utility.

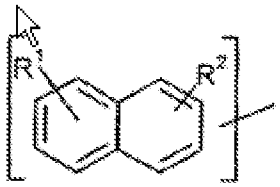


can be several substituents including



(B)

and



(C)

for example, which creates two separate cores with multiple substituents and derivatives. Additionally, when p is 1,2, or 3; the corresponding ring is 4-membered, 5-membered, and 6-membered respectively which also creates separate cores with multiple possible substituents.

Second, all the embodiments covered by the claims must share a common inventive utility disclosed. It is unlikely given the number of claimed compounds, that every single compound is capable of the alleged activity and therefore, it is unlikely that

all or practically all of the compounds have the same effect. In addition, many conditions and diseases in the claims have very distinct approaches for treatment since specific pathways must be utilized dependent on the condition. The compounds used for the pathway for Ischemic optic neuropathy are likely to be distinctly different than retinopathy. As a result, the compounds will not all share a common effect.

4. Therefore, the inventions of Groups I – VII does not constitute a special technical feature as defined by PCT Rule 13.2 as it does not define a contribution over the prior art.

Upon an election of a Group, an election of a single disclosed compound with a submitted chemical structure is required. In addition, further restriction may be required at a later date.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim

remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to GIGI HUANG whose telephone number is (571)272-9073. The examiner can normally be reached on Monday-Thursday 8:30AM-6:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fredrick Krass can be reached on 571-272-0580. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GH
/Zohreh A Fay/
Primary Examiner, Art Unit 1612